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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,917	10/10/2001	Thomas L. Welsh	FLN.P.US0002	9215

26360 7590 09/08/2003

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EXAMINER

NICHOLSON, ERIC K

ART UNIT PAPER NUMBER

3679

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/975,917

Applicant(s)

WELSH ET AL.

Examiner

Eric K Nicholson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-16 is/are rejected.
- 7) ☐ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,6,7 and 10 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by U.S. patent 3,314,696 to Ferguson et al.. The body "A" of Ferguson includes a first section (unnumbered) in which the protrusions 42 and 43 fit in; second tapered section 26 with a groove 27 for seal 28 and third section 24.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 and 8,10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 3,314,696 to Ferguson in view of U.S. patent 5,893,590 to Klinger et al..

Ferguson discloses the claimed device except for the end 20 is a threaded connection end for connecting to conduit 21 and not a barbed connection with a seal ring (claims 4,5 and 16). Further, as to claim 8 the body "A" is a straight line connector and not an elbow connector. Klinger discloses that it is known in the art to provide a similar type essential catch coupling with the configuration of an elbow or straight line connector (compare figs. 5 and 13) and further the end of the connector 240 is barbed (26) with a seal ring (260 as shown in fig. 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the threaded end connection 20 of Ferguson with the barbed and sealed end connection as taught by Klinger, in order to allow for a common connection to a flexible hose. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the body of Ferguson as an elbow as also taught by Klinger since such change in shape is

readily apparently to those skilled in the art and does not provide a patentable distinction over the prior art.

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 21 is allowed.

Applicant's arguments filed June 13, 2003 have been fully considered but they are not persuasive. The amendment to claim 1 attempts to define over the prior art with a method step limitation of having the seal being compressed during formation of the seal member receiver (groove 31) whereas the seal of Ferguson is shown to be compressed merely when inserted into the preformed groove 27, such comparison of the recited process with the prior art processes does NOT serve to resolve the issue concerning patentability of the product. In re Fessman, 489 F2d 742, 180 U.S.P.Q. 324 (CCPA 1974). Whether a product is patentable depends on whether it is known in the art or it is obvious, and is not governed by whether the process by which it is made is patentable. In re Klug, 333 F2d 905, 142 U.S.P.Q.

161 (CCPA 1964). Product-by-process claims are not construed as being limited to the product formed by the specific process recited. In re Hirao et al., 535 F2d 67, 190 U.S.P.Q. 15, see footnote 3 (CCPA 1976).

Applicant further argues that claim 5 defines over the art by claiming a barbed receiver [sic] be formed such that at least a portion of that receiver [sic] does not have a parting line which facilitates connection of tubes to that receiver [sic] and reduces the likelihood of damage to the tube. While it is believed that applicant means “retainer” where he states “receiver”, none the less the arguments appear more limiting than the claims themselves since all claim 5 states is a portion of the barbed retainer being formed without a “parting line”. Clearly there are many portions on the barbed retainer that can be said to be “without a parting line” such as the cylindrical portions or the angled portions.

This application contains claim 17-20 drawn to an invention nonelected without traverse in Paper No. 7. A complete reply to the final rejection should include cancellation of nonelected claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric K Nicholson whose telephone number is (703) 308-0829. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3679

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

ekn

9/5/03


Eric K. Nicholson
Primary Examiner
Technology Center 3600